



DEPARTMENT OF HIGHER EDUCATION & WORKFORCE DEVELOPMENT

COMPLIANCE UPDATE By Kim Slote, Assistant Associate

FAIR DEBT COLLECTION PRACTICES ACT

On Oct. 30, 2020, the Consumer Financial Protection Bureau issued a Final Rule to implement updates to the Fair Debt Collection Practices Act. The Final Rule is at the following link. https://files.consumerfinance.gov/f/documents/cfpb_debt-collection_final-rule_2020-10.pdf. The effective date is established once the Final Rule has been published in the *Federal Register*. The FDCPA first passed in 1977. A lot has changed in the way we communicate since then. The updates to the FDCPA address many of those changes.

Key provisions of the rule are below.

- The effective date of the rule is one year after publication in the *Federal Register*.
- A debt collector is prohibited from communicating with a debtor at any unusual time, or at a time that the debt collector knows or should know is inconvenient to the consumer. If the debt collector does not have knowledge of what time is inconvenient, a time before 8:00 a.m. and after 9:00 p.m. local time at the consumer's location is inconvenient.
- To comply with telephone calling restrictions, a debt collector does not place a call to a particular person: (1) more than seven times within seven consecutive days or (2) within a period of seven consecutive days after having had a telephone conversation with the person.
- Debt collectors who communicate by email or text message must follow certain procedures, including a requirement that the debt collector must offer the consumer a reasonable and simple method to opt out of such communications at a specific email address or telephone number. Consumers may use the medium of electronic communications to place a cease communication request or notify the debt collector that they refuse to pay the debt.
- The updates to the FDCPA clarify that the prohibition on harassing, oppressive, or abusive conduct applies to telephone calls, email and text messages. Examples provided in the rule demonstrate how the prohibition restricts emails and text messages.
- Provisions on disputes and record retention, among other topics, are also contained in the final rule.